

## **REMARKS/ARGUMENTS**

Claims 1 and 5-36 are pending in the application.  
Original claims 2-4 are canceled in the present response.

5 Claims 1, 5, and 24-28 have been amended.

The undersigned discussed the substance of the Office  
Action with Examiner Solola in a telephone conference on  
January 10, 2005. Applicants thank the examiner for the  
discussion and further clarification provided concerning  
10 the § 102 rejection.

Claims 1-3 and 30 were rejected under 35 U.S.C. §  
102(b) over U.S. Patent 5,512,451 (Kricka I), a paper in  
Proc. of the 9th Intl. Symposium on Biolum. and Chemilum.  
(1997), pp.470-480 (Kricka II) and another paper in Talanta  
15 (1997), 44(6), 1073-9 (Kricka III). Applicants point out  
for the record that the cited pages in the reference  
designated Kricka II herein actually spans two consecutive  
related publications by Kricka. The references disclose the  
use of aromatic boronic acid and ester compounds as  
20 enhancers of the chemiluminescent oxidation of fused  
aromatic diacyl cyclic hydrazides, such as luminol, by a  
peroxide and a peroxidase enzyme. Claim 1 as amended no  
longer reads on any of the compounds in these references by  
virtue of the new limitation that the claimed compound must  
25 be substituted with a dioxetane ring. Also, functional  
language has been deleted from the claim. It is believed  
that claims 1 and 30 are patentable over the cited  
references.

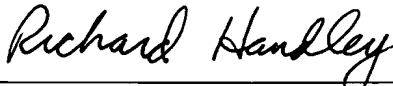
Claims 2 and 3 were rejected under 35 U.S.C. § 112,  
second paragraph as improperly depending from claim 1.  
These claims have been canceled.

Claims 1-4 were rejected under 35 U.S.C. § 112, second  
5 paragraph over the use of the term "comprises" in claims 1  
and 4. The examiner takes the position that this open-ended  
construction is impermissible in a claim to a compound.  
Applicants are unaware of any such statute and dispute that  
such a position is correct as a matter of law. Nonetheless,  
10 alternate claim language has been adopted in claim 1 as a  
result of Applicants desire to narrow the focus of the  
claim and in the interest of advancing prosecution. As a  
result claim 4 has been canceled.

Claims 24-28 have been amended to be in independent  
15 form. The application now contains a total of seven  
independent claims.

It is believed that the present response and amendment  
places all claims in allowable condition. Issuance of a  
Notice of Allowance is respectfully requested.

20

  
Richard S. Handley, Ph.D.  
Registration No. 38,484